

Message

**From:** Fertik, Rachel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1A6C790CF3C54A61A6DBB8668509D74C-RFERTIK]  
**Sent:** 2/21/2014 7:08:45 PM  
**To:** Kapuscinski, Jacques [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c8d514c9c1404013b4a2e40848117a84-Kapuscinski, Jacques]  
**Subject:** RE: Unprecedented Coalition in Washington, D.C. Next Week Urging EPA to Protect Bristol Bay, Alaska

Thanks for your kind wishes and letting me know about this, Jacques. Yes, I will be attending a meeting that they have with the Administrator next week. I didn't know about the panel discussion – I understand they do usually schedule a bunch of events when they are here, though, since they come along way.

**From:** Kapuscinski, Jacques  
**Sent:** Friday, February 21, 2014 2:05 PM  
**To:** Fertik, Rachel  
**Subject:** FW: Unprecedented Coalition in Washington, D.C. Next Week Urging EPA to Protect Bristol Bay, Alaska

Hi Rachael,  
In case you have not heard about this, Chris passed this on to me. It was nice to have coffee with you last week. Congrats again on your pregnancy, rest up and stay healthy.  
Jacques

Unprecedented Coalition in Washington, D.C. Next Week Urging EPA to Protect Bristol Bay, Alaska

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Western Director and Senior attorney, NRDC, Los Angeles

Unprecedented Coalition in Washington, D.C. Next Week Urging EPA to Protect Bristol Bay, Alaska

Posted: 02/20/2014 5:56 pm EST Updated: 02/20/2014 6:59 pm EST

Next week NRDC will join leaders from an unprecedented coalition of Alaska Natives, commercial fishermen, sportsmen, business owners, and faith leaders converging in D.C. and calling on EPA to use its authority under the Clean Water Act to protect Bristol Bay, Alaska from large-scale mining like the proposed Pebble Mine.

The coalition will host a panel discussion on Tuesday, February 25th <<http://e2.ma/message/na31h/3a29kc>> to discuss EPA's recently-released Bristol Bay Watershed Assessment <<http://www2.epa.gov/bristolbay>> and why Clean Water Act protections are needed to protect Bristol Bay's famed salmon runs - and the \$1.5 billion annual commercial fishery, 14,000 jobs, subsistence fishing, sports fishing, communities, and wildlife that the salmon support. The panel will feature members of the diverse coalition that has come together to protect Bristol Bay, including Alaska Native tribes, organizations, and corporations;

sportsmen's groups and businesses; the commercial fishing industry; the environmental community; and religious leaders.

Those groups are calling on EPA to use its authority under Section 404(c) of the Clean Water Act to protect Bristol Bay. It's clear that EPA has the scientific basis, legal authority, and moral responsibility to act now.

#### /Scientific Basis/

Last month the agency released its final Bristol Bay Watershed Assessment

<[http://switchboard.nrdc.org/blogs/tswanson/science\\_makes\\_the\\_case\\_to\\_pres.html](http://switchboard.nrdc.org/blogs/tswanson/science_makes_the_case_to_pres.html)>,

which found that the proposed Pebble Mine would cause "significant" and even "catastrophic" harm to the watershed. Even without accidents or failures, EPA found that the Pebble Mine would destroy up to 94 miles of streams and up to 5,350 acres of wetlands, lakes, and ponds in Bristol Bay. And Pebble's waste rock - which could total up to 10 billion tons - would have to be stored, maintained, and treated forever to prevent leaks and catastrophic spills. After the release of the assessment, a group of 360 scientists, researchers and university professors sent a letter to EPA

<<http://www.adn.com/2014/02/04/3306863/hundreds-of-scientists-sign-onto.html>>

expressing appreciation for the agency's work, applauding the contents of the Watershed Assessment, and urging Clean Water Act protection for Bristol Bay.

EPA's Watershed Assessment confirms the coalition's worst fears: Pebble Mine would be devastating to salmon and the economic, environmental and cultural benefits associated with the salmon. The assessment provides more than enough information to find that large-scale mining in the Bristol Bay watershed would pose "unacceptable adverse effects" to the watershed's natural resources, which is the threshold for initiating action under Section 404(c) of the Clean Water Act.

#### /Legal Authority/

Section 404(c) of the Clean Water Act authorizes EPA to prohibit, withdraw, deny, or restrict the discharge of dredged or fill materials into the waters of the United States "whenever" such discharge may have "an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas." EPA has the unequivocal right to act pursuant to Section 404(c) "whenever" failure to do so would result in unacceptable adverse environmental effects. As the U.S. Court of Appeals for the District of Columbia

<[http://www.cadc.uscourts.gov/internet/opinions.nsf/DBEEA1719A916CDC85257B56005246C4/\\$file/12-5150-1432105.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/DBEEA1719A916CDC85257B56005246C4/$file/12-5150-1432105.pdf)>

held in April 2013, "whenever" truly means "whenever": EPA may "prohibit/deny/restrict/withdraw a specification at any time."

Regulations specify that EPA may act even "before a permit application has been submitted to or approved by the Corps or a state." Given the conclusions in the Watershed Assessment that Pebble Mine would cause "significant" and even "catastrophic" harm, the standard for a 404(c) action has already been met and exceeded by EPA here.

#### /Social Responsibility/

Nine federally recognized tribes from Bristol Bay and others petitioned EPA in 2010 to use its 404(c) authority to protect Bristol Bay from large-scale mining like the Pebble Mine. In response, EPA conducted the Watershed Assessment. But it has not yet responded to the initial request for Clean Water Act protections.

Now is the time for agency action. Not only is it overdue, but there is unprecedented support for EPA action. For instance, EPA received a staggering 1.1 million total comments on its Watershed Assessment. During the first comment period, over 90 percent of the 233,000 comments received supported EPA's assessment. During the second comment period <http://fishermenforbristolbay.org/2013/09/staggering-national-support-to-save-bristol-bay/>, over 650,000 people wrote to EPA explicitly supporting the Watershed Assessment and asking the agency to protect Bristol Bay; 73 percent [http://switchboard.nrdc.org/blogs/tkiekow/the\\_message\\_to\\_epa\\_is\\_clear\\_it.html](http://switchboard.nrdc.org/blogs/tkiekow/the_message_to_epa_is_clear_it.html) of all comments, 84 percent of individual comments from within Alaska and a staggering 98 percent of individual comments from within Bristol Bay supported EPA action.

In a state known for its strong support for resource development, polls show that 85 percent of commercial fishermen in Bristol Bay [http://www.bbrsda.com/layouts/bbrsda/files/documents/bbrsda\\_reports/FINAL%20Craciun%20Comm%20Fish%20Survey%20062011.pdf](http://www.bbrsda.com/layouts/bbrsda/files/documents/bbrsda_reports/FINAL%20Craciun%20Comm%20Fish%20Survey%20062011.pdf), 81 percent of the Bristol Bay Native Corporation's native shareholders [http://www.bbnc.net/index.php?option=com\\_content&view=article&id=195:bbnc-pebble-poll&catid=36:news-events&Itemid=44](http://www.bbnc.net/index.php?option=com_content&view=article&id=195:bbnc-pebble-poll&catid=36:news-events&Itemid=44), 80 percent of Bristol Bay residents <http://www.renewableresourcesfoundation.org/sites/www.renewableresourcescoalition.org/files/resolutions-polls/Hellenthal%20Poll%20-%2014Oct09.pdf>, and over 60 percent of Alaskans [http://docs.nrdc.org/wildlife/files/wil\\_11120201a.pdf](http://docs.nrdc.org/wildlife/files/wil_11120201a.pdf) oppose the Pebble Mine.

Over 1,000 hunting and fishing groups and businesses, commercial fishermen in Alaska and across the U.S., 26,000 retail food stores, 225 chefs and restaurant owners, over 100 jewelers like Tiffany and Co <http://www.jckonline.com/2014/02/10/tiffany-ceo-alaska-gold-mine-potential-disaster>, religious organizations and leaders, and many others have written to the agency in support of EPA action to protect Bristol Bay.

And for the past two weeks, NRDC ran this special message from Robert Redford <http://www.youtube.com/watch?v=CzQm6yIPeSU> on MSNBC: <http://www.youtube.com/watch?v=CzQm6yIPeS>

The ad urges immediate action to stop the Pebble Mine. Robert Redford also penned an op-ed in USA Today <http://www.usatoday.com/story/opinion/2014/02/20/robert-redford-climate-change-column/5619627> urging protection for Bristol Bay.

EPA has the opportunity to protect both a unique natural resource and an economic powerhouse. It has the scientific basis, legal authority, and moral responsibility to protect Bristol Bay. And that's exactly what this diverse coalition of Alaska Natives, subsistence, commercial and sports fishermen, lodge owners, faith leaders and environmental groups will tell EPA next week: use your authority under the Clean Water Act to protect Bristol Bay now

<<https://secure.nrdonline.org/site/Advocacy?cmd=display&page=UserAction&id=3069>>.